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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,505	10/30/2003	Yasuo Takebe	61352-046	5764
7590	03/01/2010		EXAMINER	
MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			ART UNIT	PAPER NUMBER

DATE MAILED: 03/01/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	10/696,505	TAKEBE ET AL.	
	Examiner	Art Unit	
	Raymond Alejandro	1795	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 01/06/10 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

See Continuation Sheet.

/Raymond Alejandro/
Primary Examiner, Art Unit 1795

Continuation of 10. Other (including any explanation in support of the above items): The limitations of claim 107 in the Summary of Claimed Subject Matter of the above-captioned Appeal Brief do not appear to have been pertinently-properly mapped to the as-filed specification. See MPEP 1205.02. Applicant is required to fully map the claim limitations to paragraphs, passages, sections and/or columns of the as-filed specification.

While there appear to be some vague mapping of the limitations to the as-filed specification, it is noted that applicant appears to connect or use unrelated passages and sections of the as-filed specification to arrive at the claimed subject matter as a whole. For instance, with respect to a first set of claim limitations, applicant makes specific reference to "(Spec 6:21-22)"; "(Spec 6:22-23)"; "(Spec 6:23-26)"; "(Spec 6:26-27)" (i.e. portions of the claim preamble). Then with respect to a second set of claim limitations, applicant makes specific reference to "(Spec 68:20-23)" (i.e. steps A and B). Subsequently, with respect to a third set of claim limitations, applicant makes specific reference to "(Spec 29:3-5)" and "(Spec 28:31-29:2)" (i.e. step C).

The issue here is that there does not appear to be any "interconnection" between all the cited passages and sections of the as-filed specification to arrive at the claimed subject matter as specifically-instantly claimed and as set forth in the Summary of the Claimed Subject Matter of the above-mentioned Appeal Brief. The cited sections of page 6 do not appear to be related to the cited sections of page 68 (Example 12) and page 28; and the cited sections of page 28 do not appear to be technically pertinent to the cited sections of page 68 (Example 12). That is to say, the cited sections of page 28 do not appear to be fully applicable to the cited sections of page 68 (Example 12). In particular, the cited sections of page 68 (Example 12) appear to be related to using only nitrogen as the inert gas which is not currently claimed.

Additionally, the cited sections of page 68 (Example 12) do not appear to directly disclose the specifics of fuel cell structure and step (A) as instantly claimed, much less the limitation "terminating feeding of the oxygen-containing gas to the cathode". At most, it only recites "As the restoring operation, the electric current was terminated..." .

No additional claim-to-specification mapping other than the one recited in the Appeal Brief on pages 2-3 has been advanced by the applicant. Since applicant has claimed the subject matter of claim 107 as a whole and as part of the invention under appeal, it is considered that applicant now bears the burden of showing where all of the claimed limitations pertinent to the invention as instantly claimed can be found. It is to be noted that this action by no means raises issues related to new matter or the like, it is solely directed to address item 4 above which requires a concise explanation of the subject matter defined in the independent claim as well as to specific citations thereof in the as-filed specification. The examiner believes that additional mapping or identification of passages or sections in the as-filed specification may be necessary.

Applicant is kindly requested to correct the deficiencies indicated and noted in this Notification of Non-Compliant Appeal Brief or to provide a clarification thereof in order to avoid further delays due to formal matters of an appeal brief.